

**TOWN OF EASTHAM
SPECIAL TOWN MEETING WARRANT
AND FINANCE COMMITTEE REPORT AND
RECOMMENDATIONS**

7:00 P.M.

DECEMBER 13, 2004

NAUSET REGIONAL HIGH SCHOOL AUDITORIUM

**FOR COPIES OF THIS WARRANT IN LARGER PRINT
OR ON TAPE, PLEASE CALL 240-5900**

Also Available at: www.eastham-ma.gov

Please bring this warrant to Town Meeting

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**TOWN OF EASTHAM
SPECIAL TOWN MEETING WARRANT**

Commonwealth of Massachusetts
Barnstable, ss. ~

To: Either of the Constables of the Town of Eastham
in the County of Barnstable

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in Elections and Town affairs to meet at the Nauset Regional High School Auditorium Monday, the thirteenth day of December, Two Thousand and Four, at Seven o'clock in the evening, then and there to act on the following articles in this Warrant

ARTICLE 1

To see if the Town will vote to authorize the Board of Trustees of the Eastham Library to proceed with a feasibility study to examine the options for expanding and renovating its current library building, and further to authorize the Trustees of the Eastham Library to apply for, accept and expend any state grants which may be available for this planning grant; or take any action relative thereto.

By Library Trustees/Board of Selectmen

Summary:

This article will allow the Board of Library Trustees to apply for and accept grant funds for which the Library is currently eligible from the Massachusetts Board of Library Commissioners. The Massachusetts Code of Regulations requires a majority vote of the town meeting in order for the Library Trustees to accept these funds. This ensures that the town approves of the proposed use of these funds by the Library Trustees.

BOARD OF SELECTMEN: Recommended 5-0 in favor
FINANCE COMMITTEE: Recommended 8-0 in favor
(majority vote required)

ARTICLE 2

To see if the Town will vote to adopt Section 298 of Chapter 149 of the Acts of 2004, which allows the town to replace the Cape Cod Open Space Land Acquisition Program with the Community Preservation Act and dedicate the three percent (3%) property tax surcharge currently being assessed through fiscal year 2020, along with state matching funds that will be available to the town under the Community Preservation Act, to a special "Community Preservation Fund" that may be appropriated and spent for certain open space, historic resources and affordable housing purposes, effective for the fiscal year beginning on July 1, 2005; or to take any action relative thereto.

By Board of Selectmen

Summary:

The implementation of the above article is subject to a ballot question to be placed on the next Town Election ballot in May, 2005. Acceptance of Section 298 of Chapter 149 of the Acts of 2004 means the Community Preservation Act shall effectively replace the Cape Cod Open Space Land Acquisition Program. There shall be no additional excise on real property levied other than the current three percent (3%) levied for the provision of the Cape Cod Open Space Land Acquisition Program. Acceptance of this section shall allow the community to access state matching funds up to 100 percent of the excise on real property currently levied which was previously unavailable to the Town.

BOARD OF SELECTMEN: Recommended 5-0 in favor

FINANCE COMMITTEE: Recommended 8-0 in favor

(majority vote required)

ARTICLE 3

To see if the Town will vote to adopt a Community Preservation Committee By-law in substantially the following form, or take any other action relative thereto.

By Board of Selectmen

Community Preservation Committee By-Law

1.0 Membership of the Committee. There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to the provisions of G.L., c.44B, §5., appointed by the Board of Selectmen. The composition of the committee and the term of office for the committee members shall be as follows: one member of the Conservation Commission as designated by said Commission; one member of the Historical Commission as designated by said

Commission; one member of the Planning Board as designated by said Board; one member of the Recreation Commission, as designated by said Commission; one member of the Eastham Housing Authority as designated by said Authority; one member of the Eastham Affordable Housing Task Force as designated by said Task Force; one member of the Open Space Committee as designated by said Committee; and two at large individuals. Each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier. Should any of the officers and commissions, boards, or committees who have recommending authority under this by-law be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place.

2.0 Duties. The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the department of public works, and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

The Community Preservation Committee shall make recommendations to the Board of Selectmen and Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of affordable housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and affordable housing that is acquired or created as provided in this section. With respect to affordable housing, the Community Preservation Committee may recommend the reuse of existing buildings or construction of new buildings on previously developed sites.

The Community Preservation Committee may include in its recommendation to the Board of Selectmen and Town Meeting, a recommendation to set aside for later spending, funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

In every fiscal year, the Community Preservation Committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund in each of the following areas:

(a) open space (not including land for recreational use), (b) historic resources, (c) affordable housing, or as otherwise authorized under Section 298 of Chapter 149 of the Acts of 2004.

3.0 Requirement for a quorum and cost estimates. The Community Preservation Committee shall comply with the provision of the Open Meeting Law, G.L. c.39, §23B. The committee shall not meet or conduct business without the presence of a majority of the members of the Community Preservation Committee. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Board of Selectmen and Town Meeting shall include the committee's anticipated costs.

4.0 Amendments. This by-law may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of G.L. c.44B.

5.0 Severability. In case any section, paragraph or part of this by-law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

6.0 When Effective. Provided that Town Meeting approves Article 2 of the December 13, 2004 Special Town Meeting to adopt Section 298 of Chapter 149 of the Acts of 2004, and voters of the Town at the May 17, 2005 Annual Town Election approve adoption of same, this by-law shall take effect upon approval by the Attorney General of the Commonwealth and after all requirements of MGL.c.40, section 32 have been met. Each appointing authority shall have thirty (30) days after the effective date to make its appointments.

Summary:

In order to fully implement and participate in the Community Preservation Act, the Town, in accordance with the statute, must create a Community Preservation Committee by town by-law. This article creates that committee, and is only effective after passage by ballot of the Community Preservation Act.

BOARD OF SELECTMEN: Recommended 5-0 in favor

FINANCE COMMITTEE: Recommended 8-0 in favor

(majority vote required)

ARTICLE 4

To see if the Town will vote to transfer from available funds the sum of **\$35,000** to be used to implement an employee reclassification system for employees working in the Natural Resources and Department of Public Works and covered by the agreement between the Town of Eastham and the United Steelworkers of America Local 13507-03 Union, representing said employees; Union; or take any action relative thereto.

By Board of Selectmen

Summary:

As part of the negotiated settlement between the union and the Town it was agreed to hire a professional to review salaries and benefits for consistency with general salary and benefit levels in selected communities and develop a revised salary plan to ensure parity of Eastham workers with other town and industry standards. This work is nearing completion and as per the agreement, the implementation cost in the first year will not exceed \$35,000. If necessary, additional adjustments will be recommended at the May 2005 Annual Town Meeting.

BOARD OF SELECTMEN: Recommended 5-0 in favor

FINANCE COMMITTEE: Recommended 8-0 in favor

(majority vote required)

ARTICLE 5

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for enactment of special legislation amending Special Act, Chapter 327 of the Acts of 1988 to authorize the Orleans, Brewster and Eastham Groundwater Protection District to provide for group insurance coverage for employees of the District pursuant to Massachusetts General Laws Chapter 32B, sections 10, 7A, 9A and 9E, and to further ratify, validate and confirm any prior payments made by the District for health insurance premiums on behalf of District employees; and to further vote to authorize the Board of Selectmen to amend the Intermunicipal Agreement between the Towns of Orleans, Brewster and Eastham for the Construction, Management and Operation of a Septage Treatment Facility (the "IMA"), dated May 30, 1985, as amended, by adopting a further amendment pursuant to Section XVI of the IMA, in substantially the form set forth below:

AMENDMENT TO THE INTERMUNICIPAL AGREEMENT BETWEEN THE TOWNS OF ORLEANS, BREWSTER AND EASTHAM FOR THE CONSTRUCTION, MANAGEMENT AND OPERATION OF A SEPTAGE TREATMENT FACILITY.

Whereas, the Towns of Orleans, Brewster and Eastham, (collectively the "Towns"), are parties to an Intermunicipal Agreement between the Towns of Orleans, Brewster, Eastham for the Construction, Management and Operation of a Septage Treatment Facility, as amended, (the "IMA"), which IMA has a term of twenty (20) years which is due to expire on May 30, 2005; and

Whereas, the Towns are desirous of extending the term of the IMA for an additional period of ten (10) years and making provisions for an additional ten (10) year conditional extended term; and

Whereas, Section XVI of the IMA, provides that it may be amended by written amendment, but that no such amendment shall become effective until approved by Town Meeting in all three (3) member Towns;

Now, therefore the Towns, in consideration of the mutual covenants set forth herein, the provisions of the IMA and the authority set forth in General Laws chapter 40 section 4A, and every other power, hereby agree as follows:

1. The term of the original Agreement, and the right and easement of all three towns described in Section II of the original Agreement, shall be extended for an additional ten (10) years, until May 30, 2015. Further, unless Orleans by vote of its Board of Selectmen, determines that it does not intend to further extend the term of the IMA, and notice of such vote is provided in writing to Eastham and Brewster prior to May 30, 2013, then the term of the IMA shall be extended for an additional ten (10) years until May 30, 2025. Such additional ten (10) year period shall be subject to a right in Orleans, by vote of its Board of Selectmen, to terminate the IMA at anytime during the additional ten (10) year term, provided two (2) years prior notice is given to Eastham and Brewster of the effective date of such termination. Any termination of the IMA resulting from a vote of the Orleans Board of Selectmen as provided herein shall be treated as an expiration of the term of the IMA and the termination provisions of Section XV Termination Paragraph B (1) & (2) and Paragraph C shall apply. Further, nothing in this Amendment shall be construed to eliminate the rights of any of the three parties described in Section XV to withdraw from the Agreement at the end of any fiscal year, upon one year's prior notice, or to eliminate the rights of the two remaining parties in that event to continue operating the Facility pursuant to said Section XV (A).
2. The Site as currently described in Section II of the IMA, and as shown as Exhibit D, attached to the IMA, shall be revised by deleting there from the area of land located in the Town of Orleans and shown as Parcel 1 on the sketch plan attached hereto as Exhibit E. Parcel 1 is also shown on Town of Orleans Assessors Map 39 as a portion of Parcel 7 and Map 32 as Parcel 103. Further Orleans shall have the right by vote of its Board of Selectmen at any time during the term of the IMA, including any extended term, to remove Parcel 1A as shown on Exhibit E from the area of the Site as described in Section II of the IMA. Parcel 1A is also shown on Town of Orleans Assessors Map 39 as a portion of Parcel 1. Brewster and Eastham relinquish any right and easement to use the area of land shown as Parcel 1 on Exhibit E.

Further upon exercise by Orleans of its right to remove Parcel 1A as shown on Exhibit E Eastham and Brewster agree to relinquish any right and easement to use the area of land shown as Parcel 1A as shown on Exhibit E. Orleans shall have the right, in common with the Towns, to use the Access Road to the Facility and Oak Ridge Lane, as access for general municipal purposes to the aforementioned Parcel 1 and Parcel 1A.

3. The Site, as that term is used in the IMA, shall be revised consistent with paragraph 2 of this Amendment.
4. In consideration of the Town of Orleans purchase of the land area upon which the Facility has been constructed and operated during the initial twenty (20) year term of the IMA, and in further consideration of Orleans permitting the revised land area to continue to be used for the operation of the Facility during the extended term of the IMA, the Towns agree to cause the title to that portion of the Facility, consisting of the compost building, so called, together with all associated improvements presently located on Parcel 1 as shown on Exhibit E, to be transferred to the Town of Orleans. Upon such transfer, Orleans agrees to waive all rights of contribution against Brewster and Eastham for costs associated with any demolition or removal from Parcel 1 of that portion of the Facility so transferred.
5. Group Health Insurance Benefits
 - a. Pursuant to the provision of G.L. c.32B, §10, the Orleans, Brewster and Eastham Groundwater Protection District hereby accepts certain provisions said c.32B, authorizing any county, city, town or district to provide a plan of group life insurance, group accidental death and dismemberment insurance, and group general or blanket hospital, surgical and medical insurance for certain persons in the service of such county, city, town or district and their dependents.
 - b. Pursuant to the provisions of G.L. c.32B, §7A, the Orleans, Brewster and Eastham Groundwater Protection District shall, in addition to the payment of fifty percent of a premium for contributory group life and health insurance for employees in the service of the district and their dependents, pay a subsidiary or additional rate.
 - c. Pursuant to the provisions of G.L. c.32B. §9A, the Orleans, Brewster and Eastham Groundwater Protection District shall pay one-half of the premium costs payable by a retired employee for group life

insurance and for group general or blanket hospital, surgical, medical, dental, and other health insurance.

d. Pursuant to the provisions of G.L. c32B, §9E, the Orleans, Brewster and Eastham Groundwater Protection District shall, in addition to the payment of fifty percent of a premium for contributory group life, hospital, surgical, medical, dental, and other health insurance for employees retired from the service of the district, and their dependents, pay a subsidiary or additional rate.

6. Other than as set forth in this Amendment the provisions of the IMA are hereby ratified and confirmed by all member Towns.
7. This Amendment shall only become effective upon approval by a Town Meeting vote in all three (3) towns.

or take any action relative thereto.

By Board of Selectmen

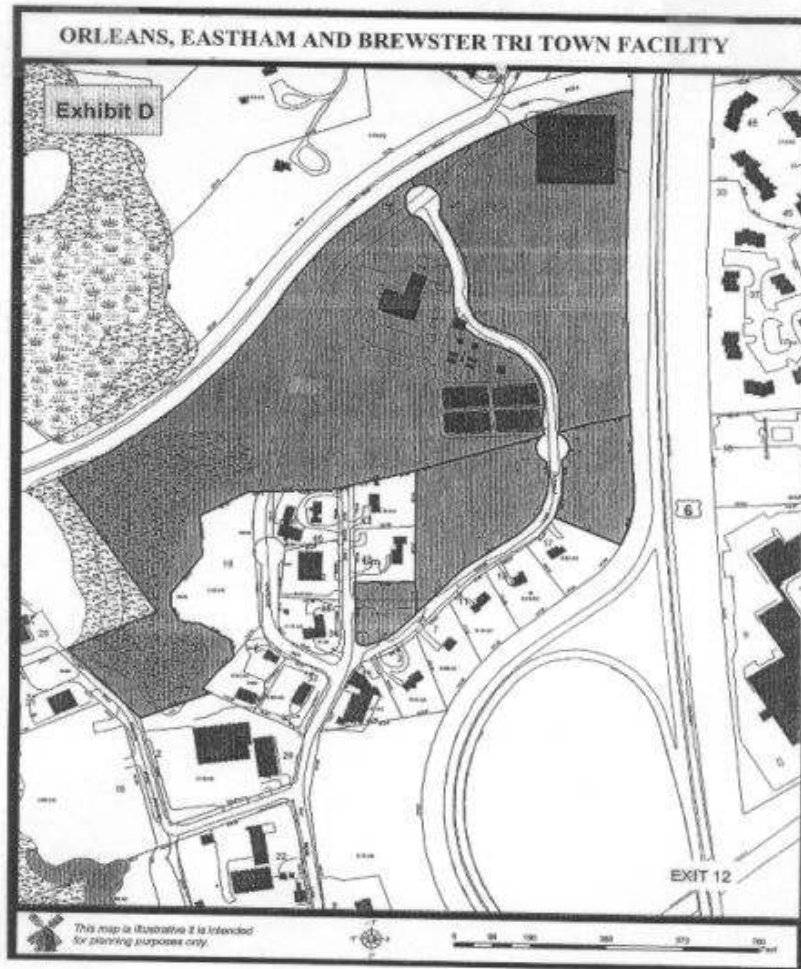
Summary:

The current intermunicipal agreement expires on May 30, 2005. This proposed amendment, as drafted by the Town of Orleans after discussions with the Board of Selectmen of Brewster and Eastham, would extend the existing agreement for a period of ten years, with an additional ten year extension possible. It would also return to the Town of Orleans the existing compost building and approximately 3 acres of property, with the option to have an additional 3 acres returned during the term of the extension (See exhibit on following pages). This entire property was purchased and is owned by the Town of Orleans and consists of approximately 26 acres. The final provision of the proposed amendment deals with the issues of health insurance for both current employees and future retirees of the District. While current employees are already receiving health insurance benefits, this provision has been included to meet the formal adoption requirements as provided for under state statute that were not previously followed by the District.

BOARD OF SELECTMEN: Recommended 5-0 in favor

FINANCE COMMITTEE: Recommended 8-0 in favor

(majority vote required)





ARTICLE 6

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of **\$30,000** to Line 46, (Dispatching Salary) May 2004 Annual Town Meeting Article 12, for the purposes of adding staff and/or increasing the work hours of existing employees, or take any action relative thereto.

By Board of Selectmen

Summary:

At the May 2003 Annual Town Meeting, the Board of Selectmen recommended a staff reduction of one in the Dispatching Department. This department, located in the Police facility, handles all dispatching and communication requirements of the Police and Fire Department and some of the radio communications of Natural Resources and DPW as well. This staff reduction has resulted in increased overtime for the remaining workers and a reduced level of service relative to clerical functions such as fire arm permits, and statistical reporting to state and federal agencies. This article will provide funds to supplement the current staff with an additional employee, returning the department to its pre-May 03 staffing levels.

BOARD OF SELECTMEN: Recommended 5-0 in favor

FINANCE COMMITTEE: Recommended 8-0 in favor

(majority vote required)

ARTICLE 7

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of **\$12,000** to Line 17, (Town Clerk Salary) May 2004 Annual Town Meeting Article 12, for the purposes of increasing the work hours in an existing position from 19 to 35 hr/wk.

By Board of Selectmen

Summary:

The Town Clerk's work load has been increasing for the past several years and the long range plan was to change a part-time position to full-time. Changes in State law concerning marriages, notary public duties and voter registration has strained the current staffing level of 2.5 persons. (This includes the elected Town Clerk). This Article will provide funding to increase the hour allocation of the part-time position (19 hours currently) to full-time (35 hours) now rather than as planned in FY 06. This is a union position and the increase will need to be bargained.

BOARD OF SELECTMEN: Recommended 5-0 in favor

FINANCE COMMITTEE: Recommended 8-0 in favor

(majority vote required)

ARTICLE 8

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of **\$4624.43** to pay the following prior year unpaid bills:

\$1,070.58 to refund an overpayment made in prior fiscal years for Ambulance Services;

\$2,453.85 to pay for water testing services;

\$1,100.00 to pay for roll off truck rental by DPW

or to take any action relative thereto.

By Board of Selectmen

Summary:

Secure Horizons Tufts Health Plan for Seniors ("Secure Horizons") failed to adjust their billing schedule for emergency ambulance transports when the Medicare regulations were changed in April 2002. This amount (\$1,070.58) is the difference between what was billed and what should have been billed under the new schedule. This is a prior year unpaid bill (\$2,453.85) overlooked when the vendor failed to notify the Town of all outstanding bills when requested by the Town to do so on July 1, 2004. The service provided was for water testing and analysis related to clean up of a fuel spill on Town-owned land at 150 Samoset Road. This prior year unpaid bill (\$1,100.00) is to pay expenses related to the rental of a roll off truck by the DPW which was billed in error too late for the close of the fiscal year.

BOARD OF SELECTMEN: Recommended 5-0 in favor

FINANCE COMMITTEE: Recommended 7-0-1 in favor

(4/5th vote required)

ARTICLE 9

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of **\$25,000** to Article 13, Line #7, Municipal Buildings, to cover the cost of various unanticipated municipal building projects; or take any action relative thereto.

By Board of Selectmen

Summary:

The \$6,000 budgeted this year for special building projects was quickly overwhelmed by several major building projects including replacement of valves and repairs to the heating systems in the Town Hall (\$4,200) and the Police Station (\$4,700), repairs to the DPW septic system (\$2,200) and

engineering, to evaluate the DPW roof and propose repair options (\$7,000). Since these problems occurred so early in the budget year, the best course of action is to replenish the budget account in order to complete building repairs for the rest of the year.

BOARD OF SELECTMEN: Recommended 5-0 in favor
FINANCE COMMITTEE: Recommended 8-0 in favor
(majority vote required)

ARTICLE 10

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of **\$100,000** to be used to secure grants, engineering services, well testing and installation and other activities related to the investigation and permitting of one or more municipal water supply wells on lands currently owned by the Town and held for this or similar general municipal purposes; or take any action relative thereto.

By Board of Selectmen/Water Resources Advisory Board

Summary:

The Water Resource Advisory Board has been conducting a study of nitrates in drinking water in the Town. They have a voluntary program of testing private wells and the results indicate that nitrate levels are increasing throughout the Town. The Board of Health and the Waste Water Management Committee are working on regulations to require better treatment of septic waste before discharge. The proximity of residential development to the landfill and water quality problems in these areas and at the Elementary School, have forced reconsideration of a limited town water supply. We have approached DEP and determined the limited scope of work necessary to develop a water supply proposal. The Town will be seeking grants to assist in the preliminary work and this appropriation will provide for activities that are not covered by grants. The work here will provide necessary information for Town Meeting to consider endorsing and/or funding a limited water supply, which may be presented in May 2005.

BOARD OF SELECTMEN: Recommended 5-0 in favor
FINANCE COMMITTEE: Recommended 8-0 in favor
WATER RESOURCE ADVISORY BOARD: At Town Meeting
(majority vote required)

ARTICLE 11

To see if the Town will do or act on anything which may legally come before this meeting.

You are directed to serve this Warrant by posting attested copies thereof at the Post Office in Eastham and North Eastham fourteen days at least before the date of holding said meeting.

Hereof, fail not and make due return of this Warrant and your doings thereon to the Town Clerk at the time and place of holding said meeting.

Given under our hands and seals this **22th** day of November in the year of our Lord, Two Thousand and Four.

Linda S. Burt
Chair

Kenelm N. Collins
Vice Chairman

Peter Whitlock

Russell Sandblom
Clerk

Joyce E. Brookshire
BOARD OF SELECTMEN

Greetings:

In a pursuance of the conditions of the foregoing warrant, I have posted attested copies, one each at the Post Office in Eastham and North Eastham fourteen days before time of said meeting.

Constable

A True Copy Attest:

PROCEDURES FOR ALL TOWN MEETINGS

In accordance with Section 2-8-2 of the Eastham Town Charter the following procedures will be followed at all future Special and Annual Town Meetings:

1. The Open Town Meeting shall be the Legislative branch of the municipal government of the Town of Eastham, as set forth in the Charter, Section 1-6.
2. Every person wishing to speak at Town meeting shall proceed to one of the available microphones. Once recognized the person shall give his or her name and address, speak to the question for not more than five minutes, and shall not speak again until all those wishing to speak thereon have done so. See Section 2-8-3 of the Charter for exceptions—persons making the motion, and persons required to be in attendance under Section 2-8-1.
3. Discussion on each article in the Town Warrant shall terminate when there is no one wishing to speak on said article or the discussion becomes redundant in the opinion of the moderator, or someone is recognized and moves the question, or a motion to limit or extend debate has been approved by a 2/3 vote of Town meeting.
4. Votes may be taken by voice (Majority to be determined by the Moderator), by show of hands, or by roll call. Articles or motions requiring a 2/3 vote will first be taken by voice vote, and if the Moderator is unable to determine whether or not the article or motion has passed or failed, then a hand vote will be taken. It takes seven town meeting members to question the results of a voice vote. If seven so question the results of a voice vote, we will move to an immediate hand count.
5. Only one who has voted on the prevailing side may move to reconsider an article and may do so at any time during Annual or Special Town Meeting. Reconsideration of an article may occur only once.
6. Amendments to an article must be made in writing and presented to the Moderator.
7. Eastham taxpayers who are not registered voters, who wish to address Town Meeting may do so if permitted by the town moderator who shall ask for a majority consent at the onset of the Town Meeting.
8. TOWN MEETING TIME, A Handbook of Parliamentary Law, Third Edition, 2001, published by and for the Massachusetts Moderators Association, is the parliamentary handbook that will be used to guide Eastham Town Meetings.
9. Voters who sit in the Non-voter Section will not have their votes counted.
10. The only persons allowed in the foyer at Town Meeting will be Registrars, Checkers and voters.
11. Persons with handouts of any nature must be outside.

These provisions address issues that commonly arise at Town Meeting, but do not purport to address

all issues that may arise.

PLEASE BE COURTEOUS BY ALLOWING EACH SPEAKER TO PRESENT THEIR IDEAS WITHOUT INTERRUPTION.